

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

KATOYA WALLACE,

Petitioner,

v.

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CIVIL ACTION NO. 1:13CV13  
(Judge Keeley)

WARDEN, USP HAZELTON,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On September 13, 2012, the pro se petitioner, inmate Katoya Wallace ("Wallace"), filed a writ of habeas corpus pursuant to 28 U.S.C. § 2241, (dkt. no. 1), in which he alleges that he was punished without adequate due process following a disciplinary hearing. (Dkt. Nos. 1, 2). The Court referred this matter to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation in accordance with LR PL P 2. On March 22, 2013, the respondent, Terry O'Brien ("O'Brien"), filed a Motion to Dismiss or, in the alternative, for Summary Judgment. (Dkt. No. 20). Although the Magistrate Judge issued a Roseboro notice to the petitioner on April 2, 2013, Wallace filed no response.

On July 2, 2013, Magistrate Judge Kaull issued an Opinion and Report and Recommendation ("R&R") recommending that Wallace's petition be denied and dismissed with prejudice. (Dkt. No. 27). The magistrate judge found that Wallace's various complaints were

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either moot or failed to raise any constitutional concerns. Id. The R&R also specifically warned Wallace that his failure to object to the recommendation within fourteen (14) days of service would result in the waiver of any appellate rights he might otherwise have on these issues. Although the record reflects that Wallace' correctional center accepted service of the R&R on July 5, 2013, he has not filed any objections.<sup>1</sup> Consequently, finding no clear error, the Court:

1. **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 27);
2. **GRANTS** the respondent's Motion to Dismiss or, in the alternative, for Summary Judgment (dkt. no. 20);
3. **DENIES** the instant § 2241 petition (dkt. no. 1); and
4. **ORDERS** that this case be **DISMISSED WITH PREJUDICE** and **STRICKEN** from the docket of this Court.

It is so **ORDERED**.

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<sup>1</sup> The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: July 23, 2013.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE